HONOURABLE MRS. JUSTICE T.MEENA KUMARI

&

HONOURABLE MR JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No:27155 OF 2007

Dated:20.12.2007

Between:

M/s Mahalakshmi Enterprises,
Vijayawada rep., by its Proprietor
Velampalli Srinivas

..Petitioner

And

1. The Joint Commissioner of Commercial Taxes,
   Office of Commissioner of Commercial Taxes,
   Commercial Taxes Complex, Nampally, Hyderabad
   and others.

..Respondents.

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HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
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WRIT PETITION No:27155 OF 2007

ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition is filed by the petitioner seeking to declare the action of the 3rd respondent in issuing the demand notice under the APGST Act, demanding to pay the disputed tax pending the stay petition before the Joint Commissioner (CT), as illegal and arbitrary and to set aside the same and consequently, to restrain the 3rd respondent from taking any coercive steps.

The main grievance of the petitioner is that against the assessment order, an appeal and the stay application have been preferred before the 2nd respondent. But the 2nd respondent dismissed the stay application, against which, the petitioner preferred a revision before the 1st respondent herein. Pending the same, the impugned notice was issued. Having aggrieved by the same, the present writ petition has been preferred.

Heard the learned Counsel appearing for the petitioner and the learned Special Standing Counsel for Commercial Tax and perused the material available on record.

It is the contention of the learned Counsel for the petitioner that a revision against the rejection of stay has been pending before the 1st respondent and at that stage, the issuance of the impugned notice is unjustifiable and that the petitioner has already paid more than 50% of the disputed tax and at this juncture, if the

relief of stay is not entertained, the very purpose of filing the appeal before the 2nd respondent will be defeated.

In the facts and circumstances of the case and in view of submission made by the learned Counsel that 50% of the disputed tax has already been paid, without expressing any opinion on the merits of the case, We feel it a fit case wherein stay can be granted. Hence, there shall be stay of recovery of balance disputed tax till the disposal of the appeal pending before the 2nd respondent.

Subject to the above direction, the writ petition is disposed of. No order as to costs.

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Justice T. Meena Kumari

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Justice C.V. Nagarjuna Reddy

Date: 20th December, 2007
Nn/Gurc.

HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
HONOURABLE MR JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No:27155 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

20/12/2007